

JANE DOE  
11151 Valley Blvd #4886,  
El Monte, CA 91734  
626-208-9665  
Plaintiff in Pro Se

**FILED**  
**APR -9 2020**  
SUSAN Y. SOONG  
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NORTH DISTRICT OF CALIFORNIA

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**

**JD**

JANE DOE,

Plaintiff,

v.

CITY OF CONCORD; COUNTY OF  
CONTRA COSTA; COUNTY OF  
SONOMA; GUY SWANGER; TAMRA  
ROBERTS; CODY HARRISON;  
RENELLE-REY VALEROS; DIANA  
BECTION; CHRISTOPHER WALPOLE;  
COLLEEN GLEASON; JILL RAVITCH;  
ANNE MASTERSON; LAURA  
PASSAGLIA; and DOES 1 - 10, inclusive,

Defendants.

**CV 20 2432**

**PLAINTIFF'S REQUEST FOR  
PROTECTIVE ORDER AND TO  
PROCEED UNDER A PSEUDONYM**

Plaintiff JANE DOE ("Plaintiff") respectfully moves this Court to allow her to proceed under a pseudonym and to enter a protective order preventing the public disclosure of her identity by Defendants in order to protect her privacy and safety.

**FACTUAL BACKGROUND**

On 3/31, 2020 Plaintiff filed her complaint against Defendants. In that complaint Plaintiff describes the serious harm she suffered as a result of discriminatory under-policing, including injury she received as a rape victim. Plaintiff filed her complaint under a pseudonym in

1 order to protect her privacy, and prevent further harm.

2       Considering the undesirability of an outcome adverse to the pseudonymous party and  
3 attributable to the party's refusal to pursue the case at the price of being publicly identified,  
4 Courts generally allow a plaintiff to litigate under a pseudonym in cases filed by sexual assault  
5 victims because they concern highly sensitive and personal subjects. See *De Amigos*, No. 11-cv-  
6 1755, slip op. at 2 (citing cases); see also *Doe v. Blue Cross & Blue Shield United of Wis.*, 112  
7 F.3d 869, 872 (7th Cir.1997) (“ [Factitious names are allowed when necessary to protect the  
8 privacy of ... rape victims, and other particularly vulnerable parties or witnesses.”); *E.E.O.C. v.*  
9 *Spoa, LLC*, No. CCB-13-1615, 2013 WL 5634337, at \*3, \*4 (D.Md. Oct. 15, 2013) (finding that  
10 “sexual assault” is a “highly sensitive and personal matter”); *Roe v. St. Louis Univ.*, No. 08-cv-  
11 1474-JCH, 2009 WL 910738, at \*5 (E.D.Mo. Apr. 2, 2009) (allowing use of pseudonym because  
12 rape is a “personal matter of the utmost intimacy”) and the use of “Doe plaintiffs” to protect  
13 legitimate privacy rights has been recognized as an appropriate practice in circumstances when a  
14 plaintiff would be further stigmatized by disclosing his or her name in court documents. The  
15 “Doe plaintiff” practice may be particularly appropriate where the facts of the case are of a sexual  
16 nature.

17       Re-victimization and harm is particularly acute, and extends beyond mere embarrassment  
18 and humiliation, when victims of sex crimes have their identities or other private information  
19 revealed when they want it to remain private. As one Connecticut court summarized, “[t]o force  
20 the plaintiff to proceed without the protection of the pseudonym Jane Doe could only subject the  
21 plaintiff to additional psychological harm and emotional distress.” *Doe v. Firm*, No.  
22 CV065001087S, 2006 WL 2847885, at \*5 (Conn. Super. Ct. Sept. 22, 2006). Refusing victims  
23 the opportunity to access justice without sacrificing privacy is one form of re-victimization at the  
24 hands of the justice process.

25       Moreover this suit is challenging the actions of local government. Pseudonyms are most  
26 often permitted in cases where plaintiffs challenge the constitutionality of practices of state or  
27 local officials. See *Indiana Black Expo*, 923 F. Supp. at 139 and 141.

28       Plaintiff files this motion for leave to proceed under a pseudonym and for the entry of a

1 protective order preventing public revelation of Plaintiff's identity and the attendant harm.

## 3 ARGUMENT

### 4 I. PLAINTIFF'S NEED FOR PRIVACY OUTWEIGHS THE PRESUMPTION OF 5 OPENNESS IN THIS CASE

6 A. The sensitive and personal nature of Plaintiff's claims justify allowing the protection  
7 of her privacy.

8 The right to privacy is a constitutionally protected interest under the federal Constitution.  
9 See *Roe v. Wade*, 410 U.S. 113, 152-53 (1973) (recognizing that "a right of personal privacy . . .  
10 does exist under the Constitution"); *Whalen v. Roe*, 429 U.S. 589, 599 (1977) (noting cases  
11 finding protected privacy interests include an "individual interest in avoiding disclosure of  
12 personal matters"). This right to privacy encompasses a victim's interest in the non-disclosure of  
13 personal information relating to a crime of a sexual nature. *Bloch v. Ribar*, 156 F.3d 673, 686 (6th  
14 Cir. 1998) (concluding that "a rape victim has a fundamental right of privacy in preventing  
15 government officials from gratuitously and unnecessarily releasing the intimate details of rape  
16 where no penalogical purpose is being served") A corollary to the right of non-disclosure of  
17 personal information is the right to non-disclosure of identifying information when disclosure of  
18 private facts is necessary, such as in the prosecution of a civil suit. See generally *Plaintiff B. v.*  
19 *Francis*, 631 F.3d 1310, 1316-18 (11th Cir. 2011) (finding trial court's order mandating disclosure  
20 of victims' names in civil lawsuit involving their participation in the Girls Gone Wild videos to  
21 be **in error** given the sensitive and highly personal nature of the issues in the suit).

22 This litigation involves matters of a highly sensitive and personal nature to Plaintiff,  
23 including the emotional and psychological impact of being a victim of rape. See *Doe No. 2 v.*  
24 *Kolko*, 242 F.R.D. 193, 194 (E.D.N.Y. 2006) (citing *Doe v. Blue Cross & Blue Shield United of*  
25 *Wisc.*, 112 F.3d 869, 872 (7th Cir.1997)) ("sexual assault victims are a paradigmatic example of  
26 those entitled to a grant of anonymity"). "The ordeal of describing an unwanted sexual encounter  
27 before persons with no more than a prurient interest in it aggravates the original injury." See  
28 *United States ex. rel. Latimore v. Sielaff*, 561 F.2d 691, 694-95 (7th Cir. 1977).

1 Disclosure rarely results in “mere” embarrassment: commentators have recognized that  
 2 disclosure of information, without the victim’s consent, in sexual assault cases can “slow the  
 3 victim’s healing process . . . .” See also Suzanne M. Leone, Protecting Rape Victims’ Identities:  
 4 Balance Between the Right to Privacy and the First Amendment, 27 New Eng. L. Rev. 883, 910-  
 5 11 (1993) (“Each victim has a unique healing process and the public disclosure of her identity  
 6 could disrupt that process before the victim is ready.”).

7 In Doe v. Penzato et al CV10-5154 MEJ (N.D. Cal. May. 13, 2011), the court noted the  
 8 strong interest in protecting sexual assault victims’ identities—to encourage them to report the  
 9 assaults without fear of being stigmatized as a sexual assault victim.

10 If Plaintiff’s true name were made public, opening her to inquiries from the press and  
 11 other interested individuals, her ability to recover from her trauma would be compromised and  
 12 her privacy, already severely invaded by Defendants, would again be at greater risk.

13 B. Proceeding under a pseudonym is necessary to protect Plaintiff from unwanted public  
 14 exposure.

15 Plaintiff’s identity has thus far been kept confidential. The availability of Plaintiff’s  
 16 identity could not only embarrass her as a rape victim, but also cause extra emotional harm, affect  
 17 job prospects, and more. Too often, sexual assault victims are put to this Hobson’s choice: seek  
 18 justice but open one’s life to public scrutiny or let injustices stand while preserving one’s privacy.

19 It is possible that Plaintiff could be targeted for “retaliatory physical or mental harm”  
 20 based on the accusations alone. If Plaintiff’s true name were made public, she will be subjected to  
 21 additional scrutiny, including from the media. In such circumstances, Plaintiff fears bringing  
 22 unwanted attention to herself. Allowing Plaintiff to proceed under a pseudonym will protect her  
 23 privacy as she attempts to rebuild her life.

24 C. The public interest is served by allowing Plaintiff to proceed under a pseudonym.

25 There is a public interest in encouraging victims of sexual assault, such as Plaintiff, to  
 26 enforce their rights. Allowing Plaintiff to protect her privacy would encourage similar victims to  
 27 enforce their rights without fear of additional trauma and privacy violations.

28 **II. DEFENDANTS WILL SUFFER NO PREJUDICE BY ALLOWING PLAINTIFF**

**TO PROCEED UNDER A PSEUDONYM**

Defendants will not be prejudiced if Plaintiff is permitted to proceed under a pseudonym. Plaintiff's identity is already known to Defendants. Thus, shielding her identity from the general public would present no obstacle to Defendants' ability to mount a defense. See *Roe v. St. Louis Univ.*, Case No. 4:08CV1474, 2009 WL 910738, at \*5 n.5 (E.D. Mo. Apr. 2, 2009) (allowing plaintiff to proceed anonymously where defendant's ability to seek discovery and challenge plaintiff's credibility was not impaired).

**III. PLAINTIFF'S BRINGING A CHALLENGE TO THE CONSTITUTIONALITY OF LOCAL GOVERNMENT'S PRACTICE AND CUSTOMS SHOULD BE PERMITTED TO PROCEED UNDER A PSEUDONYM**

The core issues being litigated – the violation of Plaintiff's constitutional rights – are of a purely legal nature, rendering the public interest in Plaintiff's identity particularly weak. Plaintiff is challenging the government, which will not be prejudiced should her identity be hidden. The public interest would be served affirmatively by Plaintiff's moving forward to vindicate her constitutional rights so the public interest weighs in favor of a grant of anonymity.

Litigants who challenge governmental activity have a strong interest in proceeding under pseudonyms. *Stegall*, 653 F.2d at 185. This is because "[i]n such circumstances the plaintiff presumably represents a minority interest (and may be subject to stigmatization), and there is arguably a public interest in a vindication of his rights. In addition, the government is viewed as having a less significant interest in protecting its reputation from damaging allegations than the ordinary individual defendant."

**CONCLUSION**

For the foregoing reasons, the balance of factors strongly favors permitting Plaintiff to proceed under a pseudonym. Plaintiff respectfully requests the Court grant her request for the entry of a protective order and to proceed under a pseudonym.

Dated: 3/31/2020

1 Respectfully submitted.

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4 JANE DOE

5 Plaintiff in Pro Se  
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